

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

**TOBY LILLEY,**

**Plaintiff,**

**v.**

**UNITED STATES OF AMERICA,**

**Defendant.**

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**Civil Action No.:**

7:14CV0555 - GEC

Filed 10/13/2014

USDC/Roanoke

**COMPLAINT**

COMES NOW Toby Lilley, by counsel, and files his Complaint against the United States of America.

**JURISDICTION AND VENUE**

1. Mr. Lilley is a citizen of the Commonwealth of Virginia and he resides in Rockbridge County, Virginia.
2. Mr. Lilley timely and fully complied with the requirements of the Federal Tort Claims Act (28 U.S.C. § 2671, *et seq.*) (the “FTCA”), including, but not limited to, presenting an administrative claim in writing to the United States Department of Veterans Affairs within two years after his claim accrued, and the United States Department of Veterans Affairs denied his claim on May 19, 2014.
3. The relevant acts and omissions occurred at the Veterans Affairs Medical Center in Salem, Virginia (“Salem VAMC”), which is owned and operated by the Defendant.
4. Jurisdiction is conferred on this Court by 28 U.S.C. § 1346(b).
5. Venue is proper pursuant to 28 U.S.C. § 1402(b).

## FACTS

6. Mr. Lilley is 67 years old and he served his Country in the Navy from approximately July 25, 1968 until April 21, 1972 on active duty.
7. Mr. Lilley was honorably discharged from the Navy on April 21, 1972.
8. Subsequent to his service in the Navy, Mr. Lilley was diagnosed with peripheral vascular disease, specifically an aortoiliac blockage.
9. On February 15, 2012, Mr. Lilley presented to the Salem VAMC for scheduling of an aorto-bifemoral bypass and was cleared for surgery.
10. On March 30, 2012, Mr. Lilley presented to the Salem VAMC to undergo the scheduled aorto-bifemoral bypass surgery.
11. Mr. Lilley arrived in the operating room at 9:55 a.m. and surgery began at 11:34 a.m.
12. Jayme B. Stokes, M.D. (seventh-year resident) was the primary surgeon.
13. The attending surgeon and first assistant was Arindam Choudhury, M.D.
14. The second assistant was Nicholas H. Pope (second-year resident).
15. Albert Weed, M.D. (OR Staff Surgeon) and Gary Collin, M.D. (Chief of Surgery) were present in the operating room.
16. Jorge Rivera-Irias, M.D., a surgeon, scrubbed in to the surgery at 1:51 p.m.
17. Drs. Stokes, Choudhury, Pope, Weed, Collin, and Rivera-Irias are referred to collectively as the “surgeons.”
18. When the surgeons transected Mr. Lilley’s aorta, they made a venotomy in his retro-aortic left renal vein.
19. The surgeons made multiple attempts to repair the venotomy.

20. Dr. Stokes documented in the Operation Report that “Before too long, we actually had a fairly significant venotomy that was difficult to control.”

21. The surgeons eventually were able to control the bleeding with pressure and oversewing.

22. Prior to transecting Mr. Lilley’s aorta, the surgeons had passed a size 20 aortic bifemoral graft through tunnels made to each groin.

23. Once they transected Mr. Lilley’s aorta, the surgeons decided to change out the graft for a smaller one.

24. As the surgeons pulled the graft back through the tunnels, the right clamp hung up on some tissue.

25. Once that tissue gave way, a significant amount of blood filled Mr. Lilley’s abdomen and right groin almost instantaneously.

26. The surgeons determined that they had injured Mr. Lilley’s right iliac system with the clamp.

27. The surgeons further determined that there was a major source of vascular loss.

28. The surgeons controlled the bleeding with direct pressure over Mr. Lilley’s right groin.

29. Mr. Lilley lost significant amounts of blood, however, every time the surgeons released the direct pressure.

30. Mr. Lilley became increasingly coagulopathic and volume-depleted.

31. Mr. Lilley suffered severe blood loss of approximately 8800 ml during the surgery.

32. Dr. Stokes bluntly dissected Mr. Lilley's right iliac artery away from his iliac vein.

33. The surgeons were never able fully to identify the venotomy, but "could see the general vicinity where the torrent of blood was coming from."

34. Dr. Stokes placed two large figure-of-eight ligating sutures across the iliac vein, which seemed to control the bleeding.

35. Dr. Stokes documented in the Operation Report that "I feel quite certain that both of these sutures near to completely occluded the iliac vein on this side."

36. Once Dr. Stokes ligated the iliac vein, the surgeons aborted their attempt at performing the aorto-bifemoral bypass surgery on Mr. Lilley.

37. Mr. Lilley had been in the operating room for six hours at that point and was quite cold.

38. The surgeons packed Mr. Lilley's abdomen copiously with packs and placed a wound VAC closure device into Mr. Lilley's abdomen for temporary closure of his surgical wound and suction.

39. The surgeons packed Mr. Lilley's right groin with sponges and stapled his skin over the sponges.

40. The surgeons closed Mr. Lilley's left groin with staples.

41. Mr. Lilley was then taken to Salem VAMC's surgical ICU ("SICU") in critical condition.

42. At around 5:13 p.m. that day in the SICU, Kristy E. Reich, R.N. was unable to detect pulses in Mr. Lilley's lower extremities.



43. Nurse Reich notified the surgeons that Mr. Lilley did not have any palpable pulses or pulses detectable with Doppler in his lower extremities.

44. Tammy E. Cox, R.N. found at approximately 8:00 p.m. that evening in the SICU that Mr. Lilley's feet were cool.

45. Nurse Cox further found that "pulses absent in feet bilaterally."

46. Between approximately 2:30 a.m. and 3:00 a.m. on March 31, 2012, Nurse Cox was able to detect intermittent popliteal and DP pulses in Mr. Lilley's left lower extremity with Doppler.

47. At that time, Nurse Cox also found popliteal venous flow in Mr. Lilley's right lower extremity with Doppler.

48. By approximately 6:34 a.m. that morning, Nurse Cox was able to detect PT/DP and popliteal pulses in Mr. Lilley's left lower extremity with Doppler.

49. Between 7:30 a.m. and 8:30 a.m. that morning, Nurse Reich found that pulses were Dopplerable only in Mr. Lilley's left lower extremity.

50. Medical Student Arthur W. Holtzclaw found at approximately 8:00 a.m. that morning that Mr. Lilley's left foot was warm and his left PT and DP pulses were detectable with Doppler.

51. Mr. Holtzclaw further found that Mr. Lilley's right foot was cool and there were no distal pulses in his right leg.

52. Between 8:30 a.m. and 9:30 a.m. that morning, Nurse Reich notified Dr. Choudhury that Mr. Lilley did not have any pulses in his right lower extremity.

53. Nurse Reich further notified Dr. Choudhury that Mr. Lilley had only Dopplerable, and not palpable, pulses in his left lower extremity.

54. At approximately 11:11 a.m. that day, Dr. Weed found no lower extremity pulses in his physical examination of Mr. Lilley.

55. Between 5:00 p.m. and 6:00 p.m. that day, Nurse Reich found that the pulses in Mr. Lilley's right lower extremity had been consistently Dopplerable for approximately 2 hours.

56. Nurse Cox found at around 9:00 p.m. that Mr. Lilley's lower extremities were warm and he had pulses detectable with Doppler in both feet.

57. At around 7:13 a.m. on April 1, 2012, Mr. Holtzclaw found that Mr. Lilley's distal pulses were detectable with Doppler bilaterally and his feet were warm.

58. Between 7:30 a.m. and 8:15 a.m. that morning, Nurse Reich found that Mr. Lilley's "BLE pulses are dopplerable."

59. Mr. Lilley returned to the operating room later that morning for an exploratory laparotomy and wash-out of his abdominal cavity.

60. Dr. Pope was the surgeon and Dr. Choudhury was the attending surgeon.

61. Dr. Weed was the first assistant and Dr. Rivera-Irias was the second assistant.

62. During the operation, the surgeons removed the packs they had placed in Mr. Lilley's abdomen and right groin on March 30, 2012, irrigated both areas with Bacitracin-infused saline, and repacked both areas.

63. The surgeons determined during the operation that they could not fully close Mr. Lilley's abdominal wound.

64. The surgeons decided to leave Mr. Lilley's fascia open and they used an ABRA device to close the wound temporarily.

65. The surgeons then filled the gap left by the ABRA device with foam vacuum sponging and placed a wound VAC over the top of the abdominal wound.

66. Mr. Lilley was returned to the SICU after the operation.
67. Nurse Cox found at around 11:07 p.m. that evening that Mr. Lilley's extremities were cool.
68. Nurse Cox was able to detect pulses with Doppler in Mr. Lilley's left foot at that time.
69. Nurse Cox, however, was only able to detect a faint PT pulse with Doppler in Mr. Lilley's right foot.
70. Nurse Cox was unable to detect a DP pulse in Mr. Lilley's right foot.
71. At around 6:11 a.m. on April 2, 2012, Nurse Cox still was not able to find a DP pulse in Mr. Lilley's right foot.
72. At around 8:12 a.m. that morning, medical student David Harris found that Mr. Lilley's feet were warm and that distal pulses were palpable on his left foot, but absent on his right foot.
73. At around 9:10 a.m. that morning, Kristen H. Bivens, R.N. found that Mr. Lilley's DP pulses were absent in both feet.
74. At around 9:31 a.m. that morning, Nurse Bivens found that both of Mr. Lilley's feet were cool to the touch.
75. Nurse Bivens further found that the PT pulse on Mr. Lilley's right lower extremity was very faint with Doppler, although the PT on his left lower extremity was easily found and heard with Doppler.
76. Nurse Bivens's pedal pulse assessment at around 3:23 p.m. that day was unchanged from her earlier assessment.

77. At around 6:43 p.m. that evening, Nurse Bivens gave an update on Mr. Lilley's condition to the doctors on rounds.

78. At around 8:00 p.m. that evening, Beth Justice, R.N. found that Mr. Lilley's right lower extremity was very tight.

79. Nurse Justice further found that there was some mottling on the toes and the underside of Mr. Lilley's right foot.

80. Nurse Justice was unable to detect DP or PT pulses on Mr. Lilley's right foot with Doppler.

81. Between 8:30 p.m. and 9:00 p.m. that evening, Nurse Justice called Dr. Choudhury into the unit and updated him on Mr. Lilley's condition.

82. Nurse Justice informed Dr. Choudhury that Mr. Lilley's right foot was pulseless and had some mottling.

83. Dr. Choudhury did not issue any new orders.

84. At around 8:35 a.m. on April 3, 2012, Rebecca C. Bayne, R.N., B.S.N., N.P. Student found that Mr. Lilley had no pedal pulses detectable by palpation or Doppler in his right lower extremity.

85. Nurse Bayne also found that the popliteal pulse in Mr. Lilley's right lower extremity was faint.

86. Nurse Bayne further found that Mr. Lilley's foot was cool and mottled to the heel.

87. At around 11:00 a.m. that morning, Nurse Bayne found that Mr. Lilley's right foot was still mottled and cool.

88. Nurse Bayne further found that Mr. Lilley's right foot had no PT or DP pulses detectable with Doppler.

89. At around 11:34 a.m. that morning, Dr. Collin found that Mr. Lilley's right leg was swollen.

90. Dr. Collin further found that Mr. Lilley had areas of mottling on the bottom of his right foot.

91. At around 11:35 a.m. that morning, Mr. Harris found that Mr. Lilley's right foot was cool and mottled.

92. Mr. Harris further found that Mr. Lilley's right lower extremity was tense and edematous.

93. Mr. Harris observed that pulses in Mr. Lilley's right lower extremity were not detectable with Doppler.

94. At around 1:55 p.m. that day, Nurse Bayne noted that Mr. Lilley's right leg was wrapped in an ace wrap dressing and was elevated to assist in decreasing edema.

95. Shortly before noon on April 3, 2012, Mr. Lilley again returned to the operating room, this time for an exploratory laparotomy, a wash-out of his abdominal cavity, VersaJet debridement of his abdominal wound, and primary closure of his abdominal fascia.

96. Dr. Pope was the surgeon and Dr. Weed was the attending surgeon and first assistant.

97. Jennifer M. McDow, R.N. found that when Mr. Lilley arrived in the operating room, "Patient has an extremely swollen/tight right leg, mottling noted on the right foot."

98. The surgeons removed the wound VAC and ABRA device and irrigated Mr. Lilley's peritoneal cavity.



99. The surgeons then performed VersaJet debridement of Mr. Lilley's skin edge to remove the granulation tissue that had formed over the medial aspect of Mr. Lilley's soft tissue prior to closing his fascia.

100. The surgeons then closed Mr. Lilley's fascia and skin and returned him to the SICU.

101. Nurse Justice found at around 8:00 p.m. that evening that Mr. Lilley's "RLE very tight w/ ace wrap in place from toes to mid-thigh, toes are cold and blanched w/ mottling @ sole."

102. Nurse Justice was unable to detect any pulses in Mr. Lilley's right foot with Doppler.

103. At around 8:05 a.m. on April 4, 2012, Mr. Harris found that Mr. Lilley's right foot was cool (T73.6).

104. Mr. Harris found that the current temperature of Mr. Lilley's right foot was 76 degrees Fahrenheit.

105. Mr. Harris also found that Mr. Lilley's right lower extremity was tense and edematous.

106. Mr. Harris observed that pulses in Mr. Lilley's right lower extremity were not detectable with Doppler.

107. Mr. Harris believed that Mr. Lilley's right lower extremity appeared to have improved with compression wrap and elevation.

108. Mr. Harris's plan was to continue to watch the vascular status of Mr. Lilley's right lower extremity.



109. Nurse Reich found at around 8:46 a.m. that morning that Mr. Lilley's right DP and PT pulses were absent.

110. Nurse Reich also found that the capillary refill in Mr. Lilley's right lower extremity was "Not Applicable."

111. Between 1:30 p.m. and 2:30 p.m. that day, Nurse Reich noted that Mr. Lilley's foot was still cold and mottled.

112. At around 8:00 p.m. that evening, Nurse Cox found that Mr. Lilley's right DP and PT pulses were absent.

113. Nurse Cox further found that the capillary refill in Mr. Lilley's right lower extremity was "sluggish."

114. At around 11:45 p.m. that evening, Nurse Cox found that Mr. Lilley's right lower extremity was cool.

115. Nurse Cox was unable to detect any pulses in Mr. Lilley's right lower extremity at that time.

116. At around 8:10 a.m. on April 5, 2012, Mr. Harris found that Mr. Lilley's right lower extremity was cool from foot to mid-calf (T70.6).

117. Mr. Harris also found that Mr. Lilley's right lower extremity was tense and edematous.

118. Mr. Harris further found that the mottling of Mr. Lilley's right foot was progressing.

119. Mr. Harris observed that pulses in Mr. Lilley's right lower extremity were not detectable with Doppler.

120. Mr. Harris's impression was that Mr. Lilley's right lower extremity appeared worse.

121. Mr. Harris's plan was to keep Mr. Lilley's right leg elevated and to continue to watch the vascular status of Mr. Lilley's right lower extremity.

122. At around 8:32 that morning, Nurse Reich found that Mr. Lilley's right DP and PT pulses were absent.

123. Nurse Reich further found that the capillary refill in his right lower extremity was "Not Applicable."

124. Between 7:30 a.m. and 8:30 a.m. that morning, Nurse Reich found that Mr. Lilley's "RLE remains cold, pulseless and mottled distal to the ankle."

125. Between 4:30 p.m. and 5:30 p.m. that day, Nurse Reich discussed Mr. Lilley's cold mottled right lower extremity with Drs. Collin and Weed.

126. At around 4:32 p.m. that day, Dr. Collin found that Mr. Lilley's right foot was "more mottled and cool."

127. In his plan for Mr. Lilley, Dr. Collin documented that he was "concerned about right leg, but there is no great solution to this situation. Is likely venous congestion compromising his already poor perfusion."

128. At around 8:00 p.m. that evening, Nurse Cox found that Mr. Lilley's right foot was cold and mottled.

129. Nurse Cox was unable to detect any pulses in Mr. Lilley's right foot.

130. At around 8:00 a.m. on April 6, 2012, Wynniefreda A. Shroades, RN found that Mr. Lilley's right foot was mottled.

131. Nurse Shroades further found that Mr. Lilley's right foot was cool to the touch.

132. Nurse Shroades was unable to detect any pulses in Mr. Lilley's right foot.
133. At around 8:12 a.m. that morning, Mr. Harris found that Mr. Lilley's right lower extremity was cool from foot to mid-calf (T70.6).
134. Mr. Harris also found that the mottling of Mr. Lilley's right foot was progressing.
135. Mr. Harris further found that Mr. Lilley's right lower extremity was less tense and edematous.
136. Mr. Harris observed that pulses in Mr. Lilley's right lower extremity were not detectable with Doppler.
137. Mr. Harris's impression was that Mr. Lilley's right lower extremity appeared worse that day.
138. Mr. Harris's plan was to keep Mr. Lilley's right leg elevated and to continue to watch the vascular status of Mr. Lilley's right lower extremity.
139. At around 11:59 a.m. that day, Dr. Weed found that Mr. Lilley's "Left [sic] foot is very cold and mottled from the ankle down, but not necrotic yet."
140. Dr. Weed's assessment was that Mr. Lilley was "Now with cold left [sic] foot – will likely lose the foot but at this time very little we can do other than elevate and compression."
141. At around 8:00 p.m. that evening, Katherian R. Lindsay, R.N. found that Mr. Lilley's right ankle and foot were cold.
142. Nurse Lindsay further found that Mr. Lilley's right ankle and foot were cyanotic.
143. Nurse Lindsay was unable to detect any pulses in Mr. Lilley's right lower extremity with Doppler.
144. Nurse Lindsay administered warm compresses to Mr. Lilley's right foot.

145. Shortly after midnight on April 7, 2012, Nurse Lindsay found that Mr. Lilley's right foot remained cold, pulseless, and cyanotic without change.

146. Nurse Lindsay found that the condition of Mr. Lilley's right foot remained essentially the same at around 2:00 a.m.

147. Nurse Lindsay found that the condition of Mr. Lilley's right foot remained essentially the same at around 4:00 a.m.

148. Nurse Lindsay applied warm towels to Mr. Lilley's right lower extremity at around 4:00 a.m.

149. At around 7:51 a.m. that day, Mr. Harris found that Mr. Lilley's right lower extremity was cool from foot to mid-calf (T70.6).

150. Mr. Harris also found that the purple discoloration extended from Mr. Lilley's toes to his ankle.

151. Mr. Harris further found that Mr. Lilley's right lower extremity was less tense and edematous.

152. Mr. Harris observed that pulses in Mr. Lilley's right lower extremity were not detectable with Doppler.

153. Mr. Harris's plan was to keep Mr. Lilley's right leg elevated and to continue to watch the vascular status of Mr. Lilley's right lower extremity.

154. At around 8:00 that morning, Nurse Shroades found that Mr. Lilley's right foot was cold and mottled.

155. Nurse Shroades was unable to detect any pulses in Mr. Lilley's right foot by palpation or with Doppler.

156. At around 10:25 a.m. that day, Alan P. White, M.D. found that Mr. Lilley's "Rt foot quite dusky, warm to ankle."

157. At around 8:00 p.m. that evening, Nurse Lindsay found that Mr. Lilley's right foot was blackish-blue on his toes, the sole of his foot, and the top of his foot to his ankle.

158. She further found that Mr. Lilley's right lower extremity was cold from foot to ankle.

159. Nurse Lindsay was not able to detect any pulses in Mr. Lilley's right lower extremity with Doppler.

160. At around 1:00 a.m. on April 8, 2012, Nurse Lindsay found that Mr. Lilley's right lower extremity was still cold and blackened at his foot.

161. At around 5:00 a.m. that morning, Nurse Lindsay found that Mr. Lilley had 3+ edema in his right lower extremity.

162. Nurse Lindsay also found that Mr. Lilley's right foot was cold and cyanotic.

163. Nurse Lindsay further found that there was a large fluid-filled blister on the sole of Mr. Lilley's right foot.

164. At around 8:00 a.m. that morning, Nurse Shroades found that Mr. Lilley's right foot was cyanotic and cool to the touch.

165. Nurse Shroades further found that Mr. Lilley had several blisters on the sole and top of his right foot.

166. Nurse Shroades was unable to detect any pulses in Mr. Lilley's right foot.

167. At around 8:13 a.m. that morning, Mr. Harris found that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.



168. Mr. Harris also found that purple discoloration extended from Mr. Lilley's toes to his ankle.

169. Mr. Harris further found that Mr. Lilley's right lower extremity was less tense and edematous.

170. Mr. Harris observed that pulses in Mr. Lilley's right lower extremity were not detectable with Doppler.

171. Mr. Harris's plan was to continue to watch the vascular status of Mr. Lilley's right lower extremity.

172. At around 9:16 a.m. that morning, Dr. White found that Mr. Lilley's "Rt foot unchanged x new bullae."

173. At around noon that day, Nurse Shroades found that Mr. Lilley's right foot was "mottled and cold to touch."

174. Nurse Shroades further found that there were more blisters under Mr. Lilley's right foot.

175. At around 8:00 p.m. that evening, Nurse Lindsay found that Mr. Lilley's right lower extremity remained "cold @ foot to ankle."

176. Nurse Lindsay further found that Mr. Lilley's right foot was blackened, with "large fluid filled blisters on sole, top of foot and ankle."

177. Nurse Lindsay further found that Mr. Lilley's right foot was pulseless.

178. At around 2:00 a.m. on April 9, 2012, Nurse Lindsay found that Mr. Lilley's right foot was still cold, blackened, and pulseless.

179. At around 4:00 a.m. that morning, Nurse Lindsay found that Mr. Lilley's right foot remained in the same condition, except that the blister on his dorsal foot had erupted.



180. At around 8:18 a.m. that morning, Mr. Harris found that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.

181. Mr. Harris also found that purple discoloration extended from Mr. Lilley's toes to his ankles and that the tips of his toes were black.

182. Mr. Harris further found that Mr. Lilley had large blisters on his right foot (5cm/6cm bulla on the sole).

183. Mr. Harris further found that Mr. Lilley's right lower extremity was less tense and edematous.

184. Mr. Harris observed that pulses in Mr. Lilley's right lower extremity were not detectable with Doppler.

185. Mr. Harris noted that Mr. Lilley's fever had spiked to 103.6 overnight and it was his impression that infection from the skin breakdown on Mr. Lilley's foot was a possible source of the fever.

186. Mr. Harris's plan was to keep Mr. Lilley's right leg elevated and to continue to watch the vascular status of Mr. Lilley's right lower extremity.

187. At around 4:29 p.m. that afternoon, Dr. Weed found that Mr. Lilley's "RLE foot to ankle cold and blue – clearly demarcating."

188. Dr. Weed's plan was to consider guillotine amputation of Mr. Lilley's right foot if Mr. Lilley "continues have fevers/increased WBC with no source."

189. Dr. Weed's impression was that Mr. Lilley would likely lose his right foot at some point in any event.

190. At around 8:58 p.m. that evening, Nurse Cox observed that Mr. Lilley was moving all extremities except for his right foot.

191. Nurse Cox found that Mr. Lilley's right lower extremity was cold.
192. Nurse Cox further found that Mr. Lilley's right foot was purple, with large blisters.
193. Nurse Cox was unable to detect any pulses in Mr. Lilley's right foot.
194. At around 7:29 a.m. on April 10, 2012, Nurse Reich found that Mr. Lilley's right foot was purple and blistered distal to the malleolus.
195. Nurse Reich was unable to detect any pulses in Mr. Lilley's right foot.
196. At around 7:46 a.m. that morning, Dr. Weed found that Mr. Lilley's foot was "black with draining blisters."
197. Dr. Weed's impression was that Mr. Lilley was "now with imminent loss of right foot."
198. Dr. Weed's plan was to consider amputation of Mr. Lilley's foot if Mr. Lilley worsened.
199. At around 1:59 p.m. that afternoon, Mr. Harris found that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.
200. Mr. Harris also found that purple discoloration extended from Mr. Lilley's toes to his ankle and that the tips of Mr. Lilley's toes were black.
201. Mr. Harris further found that Mr. Lilley had minor skin breakdown and that there were large blisters on Mr. Lilley's right foot (5cm/6cm bulla on sole).
202. Mr. Harris further found that Mr. Lilley's right lower extremity was less tense and edematous.
203. Mr. Harris observed that pulses in Mr. Lilley's right lower extremity were not detectable with Doppler.

204. Mr. Harris's impression was that that infection from the skin breakdown on Mr. Lilley's foot was a possible source for his fever.

205. Mr. Harris's plan was to keep Mr. Lilley's right leg elevated and to continue to watch the vascular status of Mr. Lilley's right lower extremity.

206. At around 9:02 p.m. that evening, Nurse Cox found that Mr. Lilley's right foot was cold.

207. Nurse Cox also found that Mr. Lilley's right foot was purple and had large blisters.

208. Nurse Cox was unable to detect any pulses in Mr. Lilley's right foot.

209. Shortly after midnight on April 11, 2012, Richard D. Evans, R.N. found that Mr. Lilley's right foot and ankle were cold.

210. Nurse Evans also found that Mr. Lilley's right foot and ankle were blue.

211. Nurse Evans further found that Mr. Lilley's right foot had large areas of previous blisters.

212. Nurse Evans was unable to detect any pulses in Mr. Lilley's right foot and ankle.

213. At around 8:10 that morning, Mr. Harris found that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.

214. Mr. Harris also found that purple discoloration extended from Mr. Lilley's toes to his ankle and that the tips of Mr. Lilley's toes were black.

215. Mr. Harris further found that Mr. Lilley's right lower extremity was less tense and edematous.

216. Mr. Harris further found that there were large blisters on Mr. Lilley's right foot (5cm/6cm bulla on sole) and that a bulla on Mr. Lilley's right foot was draining.

217. Mr. Harris further found that Mr. Lilley had multiple sites of skin breakdown.
218. Mr. Harris noted that Mr. Lilley was complaining of pain in his right foot and leg only.
219. Mr. Harris's plan was to keep Mr. Lilley's right leg elevated and to continue to watch the vascular status of Mr. Lilley's right lower extremity.
220. At around 8:34 a.m. that morning, Nurse Reich found that Mr. Lilley's right foot was cold and purple.
221. Nurse Reich was unable to detect any pulses in Mr. Lilley's right foot.
222. Nurse Reich found that Mr. Lilley was complaining of constant sharp pain in his right foot with a pain severity of 6 on a scale of 1 to 10.
223. Nurse Reich noted that Mr. Lilley was upset about the loss of his foot.
224. At around 2:51 p.m. that afternoon, Dr. Weed found that Mr. Lilley was complaining of right foot pain.
225. Dr. Weed also found that Mr. Lilley's right lower extremity had significant edema, which had not changed.
226. Dr. Weed further found that Mr. Lilley's right foot was cold, which was not a significant change.
227. Dr. Weed further found that Mr. Lilley's right foot was blue/purple and mottled, which was not a significant change.
228. Dr. Weed's assessment was that Mr. Lilley was "Now with right foot ischemia due to underlying PVD and venous congestion due to tying off the iliac vein."
229. Dr. Weed's plan was to continue to "watch the foot and possible BKA – probably a guillotine first then later revision once edema has resolved."

230. At around 8:00 p.m. that evening, Nurse Lindsay found that Mr. Lilley was complaining of pain in his right foot that throbbed like a headache with a pain severity of 10 on a scale of 1 to 10.

231. Nurse Lindsay also found that Mr. Lilley's right foot was cold to the ankle.

232. Nurse Lindsay further found that Mr. Lilley's right foot was cyanotic.

233. Nurse Lindsay further found that Mr. Lilley had blackened toes on his right foot.

234. Nurse Lindsay further found that Mr. Lilley had erupted blisters on his right foot that were draining serous fluid.

235. Nurse Lindsay was unable to detect any pulses in Mr. Lilley's right foot.

236. Nurse Lindsay found that Mr. Lilley had no sensation on his right foot and he was unable to move his right lower extremity at all.

237. Shortly after midnight on April 12, 2012, Nurse Lindsay found that Mr. Lilley was continuing to complain of pain in his right lower extremity with a pain severity of 10 on a scale of 1 to 10.

238. At around 2:00 a.m. that morning, Nurse Lindsay found that Mr. Lilley continued to complain of pain in his right lower extremity with a pain severity of 10 on a scale of 1 to 10, but stated that the pain was intermittent and was non-sustaining with the use of Dilaudid patient-controlled analgesia.

239. At around 4:00 a.m. that morning, Nurse Lindsay found that Mr. Lilley complained of intermittent severe pain in his right lower extremity with a pain severity of 10 on a scale of 1 to 10.

240. At around 6:00 a.m. that morning, Nurse Lindsay found that Mr. Lilley continued to complain of intermittent pain in his right foot with a pain severity of 10 on a scale of 1 to 10.



241. At around 8:03 a.m. that morning, Mr. Harris found that Mr. Lilley was complaining of intermittent throbbing pain in his right foot that was unrelieved with his patient-controlled analgesia.

242. Mr. Harris also found that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.

243. Mr. Harris further found that purple discoloration extended from Mr. Lilley's toes to his ankle and that Mr. Lilley's toes were black.

244. Mr. Harris further found that Mr. Lilley's right lower extremity was less tense and edematous.

245. Mr. Harris further found that there were large blisters on Mr. Lilley's right foot (5cm/6cm bulla on sole) and that a bulla on Mr. Lilley's right foot was draining.

246. Mr. Harris further found that Mr. Lilley had multiple sites of skin breakdown.

247. Mr. Harris's plan was to continue to watch the vascular status of Mr. Lilley's right lower extremity.

248. Around noon that day, Vicky L. Doss, R.N., B.S.N. found that Mr. Lilley's right foot was cold.

249. Nurse Doss also found that Mr. Lilley's right foot was purple.

250. Nurse Doss further found that there were broken blister areas on Mr. Lilley's right foot.

251. Nurse Doss was unable to detect any pulses in Mr. Lilley's right foot.

252. Nurse Doss further found that Mr. Lilley was complaining of intermittent pain in his right foot with a pain severity of 10 on a scale of 1 to 10.



253. At around 2:19 p.m. that afternoon, Renee M. Tatum, M.S.P.T., G.C.S. found that Mr. Lilley's foot was cold and blue.

254. Ms. Tatum also found that Mr. Lilley's right ankle was in the plantar flexed position with inability to stretch.

255. Ms. Tatum did not passively stretch Mr. Lilley's right ankle due to pain and the state of his foot integrity.

256. Ms. Tatum further found that Mr. Lilley did not have any sensation in his right foot, but he was hypersensitive in his right calf.

257. Ms. Tatum educated Mr. Lilley as to the importance of exercising his right lower extremity as much as possible to maximize the bloodflow in his right lower extremity and increase circulation.

258. Ms. Tatum determined that Mr. Lilley would more than likely need extensive inpatient rehabilitation after his hospitalization because he lived alone and Mr. Lilley's physicians had noted potential amputation.

259. At around 2:28 p.m. that afternoon, Dr. Weed found that Mr. Lilley's right lower extremity was still fairly edematous.

260. Dr. Weed further found that Mr. Lilley's right foot was still cold and blue.

261. In his plan, Dr. Weed noted that Mr. Lilley "will need giullotine [sic] amputation of right foot – probably next week."

262. At around 8:00 p.m. that evening, Nurse Lindsay found that Mr. Lilley denied pain or discomfort "except with tactile stimuli of RLE."

263. Nurse Lindsay further found that Mr. Lilley's "RLE remains cold at foot to ankle and cyanotic with erupted blisters and necrotic lesion rt. great toe."

264. Nurse Lindsay was unable to detect any pulses in Mr. Lilley's right foot.

265. At around 4:00 a.m. on April 13, 2012, Nurse Lindsay found that Mr. Lilley's "Rt. foot remains cold, blackening of rt. great toe, pulseless to ankle. Shin glossy red with sensation to dull prick . . . essentially no change overnight."

266. At around 6:00 a.m. that morning, Nurse Lindsay found that Mr. Lilley complained of pain upon tactile stimuli to his right foot.

267. Nurse Lindsay further found that erupted blisters on Mr. Lilley's right foot were oozing.

268. Nurse Lindsay changed the dressing on Mr. Lilley's right foot and elevated his right lower extremity on two pillows.

269. Between 7:00 a.m. and 8:00 a.m. that morning, Nurse Reich found that Mr. Lilley's right foot was purple.

270. Nurse Reich was unable to detect any pulses in Mr. Lilley's right foot.

271. At around 9:29 a.m. that morning, Nurse Reich found that Mr. Lilley was complaining of pain in his right foot with a pain severity of 6 on a scale of 1 to 10.

272. Nurse Reich noted that Mr. Lilley was upset about losing his foot.

273. At around 12:29 p.m. that day, Mr. Harris found that Mr. Lilley was not in pain unless his right foot was manipulated.

274. Mr. Harris also noted that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.

275. Mr. Harris further found that the toes and sole of Mr. Lilley's right foot were black.

276. Mr. Harris further found that Mr. Lilley's right lower extremity was less tense and edematous.

277. Mr. Harris further found that Mr. Lilley had large blisters on his right foot (5cm/6cm bulla on sole) with a bulla that was draining.

278. Mr. Harris further found that Mr. Lilley had multiple sites of skin breakdown on his right lower extremity.

279. Mr. Harris's plan was to continue watching the vascular status of Mr. Lilley's right lower extremity.

280. At around 2:35 p.m. that afternoon, Dr. Weed found that Mr. Lilley's right foot and leg were unchanged.

281. Dr. Weed's assessment was that Mr. Lilley had pneumonia and right foot necrosis.

282. Dr. Weed's plan was for Mr. Lilley to have a guillotine right foot amputation "next week."

283. At around 8:00 p.m. that evening, Nurse Cox found that Mr. Lilley's right foot was cold.

284. Nurse Cox also found that Mr. Lilley's right foot was mottled and purple.

285. Nurse Cox further found that Mr. Lilley had huge blisters on his right foot that were open and weeping.

286. Nurse Cox was unable to detect any pulses in Mr. Lilley's right foot.

287. At around 9:17 p.m. that evening, Nurse Cox found that Mr. Lilley was complaining of pain in his right foot.

288. Between 7:59 a.m. and 9:30 a.m. on April 14, 2012, Nurse Reich found that Mr. Lilley's right foot was cold.

289. Nurse Reich also found that Mr. Lilley's right foot was mottled and purple.

290. Nurse Reich further found that Mr. Lilley's right lower extremity had old draining blisters.

291. Nurse Reich was unable to detect any pulses in Mr. Lilley's right lower extremity.

292. At around 8:32 a.m. that morning, Dr. Rivera-Irias documented that Mr. Lilley slowly had recovered from an attempted aorto-bifemoral bypass "marred by heavy life threatening [sic] retro peritoneal bleeding."

293. Dr. Rivera-Irias found that Mr. Lilley's right foot had severe ischemia.

294. Dr. Rivera-Irias's plan was "we are waiting for some kind of demarcation to decide future tx."

295. At around 8:32 that morning, Surgery Student Elizabeth Kain found that Mr. Lilley was complaining of foot pain with a pain severity of 10 on a scale of 1 to 10.

296. Ms. Kain also found that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.

297. Ms. Kain further found that the toes and sole of Mr. Lilley's right foot were black.

298. Ms. Kain further found that Mr. Lilley had large blisters on his right foot, including a 6cm bulla on the sole of his foot that was draining.

299. Ms. Kain further found that Mr. Lilley had multiple sites of skin breakdown.

300. Between 10:30 a.m. and 11:30 a.m. that morning, Nurse Reich found that Mr. Lilley was complaining of right leg pain.

301. At around 8:00 p.m. that evening, Nurse Cox found that Mr. Lilley's right foot was cold and purple.

302. Nurse Cox also found that Mr. Lilley had huge blisters on his right foot that were open and weeping.

303. Nurse Cox further found that Mr. Lilley was complaining of right foot pain with a pain severity of 4 on a scale of 1 to 10.

304. Nurse Cox was unable to detect any pulses in Mr. Lilley's right foot.

305. At around 7:51 a.m. on April 15, 2012, Dr. Rivera-Irias found that Mr. Lilley was still having significant pain in his right foot.

306. Dr. Rivera-Irias's impression was that Mr. Lilley's vital signs and labs were within acceptable ranges and that Mr. Lilley was making good progress.

307. Dr. Rivera-Irias's plan was to continue present management and support.

308. Between 7:00 a.m. and 8:00 a.m. that morning, Nurse Reich found that Mr. Lilley's right foot was purple.

309. Nurse Reich also found that Mr. Lilley's right foot had draining blisters.

310. Nurse Reich was unable to detect any pulses in Mr. Lilley's right foot.

311. Nurse Reich further found that there was slight redness on the anterior aspect of Mr. Lilley's right shin.

312. At around 8:27 a.m. that morning, Ms. Kain found that Mr. Lilley was complaining of severe pain in his right lower extremity up to his upper calf with a pain severity of 10 on a scale of 1 to 10.

313. Ms. Kain also found that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.



314. Ms. Kain further found that the toes and sole of Mr. Lilley's right foot were black.
315. Ms. Kain further found that Mr. Lilley had large blisters on his right foot, including a 6cm bulla on the sole of his foot that was draining.
316. Ms. Kain further found that Mr. Lilley had multiple sites of skin breakdown.
317. Ms. Kain noted that Mr. Lilley was requesting right foot amputation.
318. Ms. Kain's plan was to continue to watch the vascular status of Mr. Lilley's right lower extremity, with possible amputation of the foot on April 17, 2012.
319. Between 5:00 p.m. and 6:00 p.m. that evening, Nurse Reich found that Mr. Lilley was complaining of leg pain, including severe pain on palpation.
320. Nurse Reich showed the redness on Mr. Lilley's anterior right lower leg to Dr. Pope.
321. At around 8:00 p.m. that evening, Nurse Cox found that Mr. Lilley's right foot was cold.
322. Nurse Cox also found that Mr. Lilley's right foot was mottled and purple.
323. Nurse Cox further found that Mr. Lilley's right foot had huge blisters that were open and weeping.
324. Nurse Cox noted that Mr. Lilley's right leg was getting red and warm.
325. Nurse Cox was unable to detect any pulses in Mr. Lilley's right foot.
326. At around 9:02 p.m. that evening, Nurse Cox found that Mr. Lilley was complaining of pain in his right foot.
327. At around 8:00 a.m. on April 16, 2012, Nurse Shroades found that Mr. Lilley's right foot was ischemic and black.
328. Nurse Shroades also found that Mr. Lilley's right foot was cool to the touch.



329. Nurse Shroades further found that Mr. Lilley had blisters on his right foot and that the toes on his right foot had eschar.

330. Nurse Shroades further found that Mr. Lilley was complaining of right foot pain with a pain severity of 10 on a scale of 1 to 10.

331. Nurse Shroades was unable to detect any pulses in Mr. Lilley's right foot.

332. At around 12:34 p.m. that day, Ms. Kain found that Mr. Lilley's right foot continued to cause him a great deal of pain.

333. Ms. Kain also found that Mr. Lilley's right leg was becoming red from his ankle to halfway up his calf with signs of cellulitis.

334. Ms. Kain further found that Mr. Lilley's right lower extremity was cool from his foot to just above his ankle.

335. Ms. Kain further found that the toes and sole of Mr. Lilley's right foot were black/red.

336. Ms. Kain further found that Mr. Lilley had large blisters on his right foot, including a 6cm bulla on the sole of his foot that was draining.

337. Ms. Kain further found that Mr. Lilley had multiple sites of skin breakdown.

338. Ms. Kain's plan was to continue to watch the vascular status of Mr. Lilley's right lower extremity with a probable below-the-knee amputation on April 17, 2012.

339. At around 5:13 p.m. that evening, Dr. Weed found that Mr. Lilley's right foot was cold and blue.

340. Dr. Weed's further found that Mr. Lilley's leg still had a fair amount of edema but was improving.

341. Dr. Weed further found that Mr. Lilley was complaining that his foot hurt.

342. Dr. Weed's impression was that Mr. Lilley had a necrotic right foot.

343. Dr. Weed's plan was for Mr. Lilley to undergo a right guillotine foot amputation the next day.

344. At around 8:00 p.m. that evening, Nurse Justice found that Mr. Lilley's right foot was cold and ischemic.

345. Nurse Justice further found that Mr. Lilley complained of pain in his calf when his right foot was flexed.

346. Nurse Justice was unable to detect any pulses in Mr. Lilley's right foot.

347. At around 8:00 a.m. on April 17, 2012, Nurse Shroades found that Mr. Lilley's right foot was cold.

348. Nurse Shroades also found that Mr. Lilley's right foot had blisters at the top and bottom of the foot.

349. Nurse Shroades further found that Mr. Lilley had a blackened area on his right foot.

350. Nurse Shroades further found that Mr. Lilley had edema in his right lower extremity up to and below his knee.

351. Nurse Shroades further found that Mr. Lilley was complaining of pain in his right foot with a pain severity of 10 on a scale of 1 to 10.

352. Later that morning, Mr. Lilley returned to the operating room for a guillotine amputation of his right foot.

353. Dr. Pope was the surgeon and Dr. Weed was the attending surgeon and first assistant.

354. The surgeons first made a circumferential incision above Mr. Lilley's right ankle.

355. The surgeons then dissected Mr. Lilley's skin and soft tissues sharply down to the level of the bone.

356. The surgeons cleared the soft tissue attachments from Mr. Lilley's tibia with a periosteal elevator.

357. The surgeons then transected Mr. Lilley's tibia with a battery-operated saw.

358. The surgeons then transected Mr. Lilley's tibia with a bone clip and debrided the sharp edges with a rongeur.

359. The surgeons then re-approximated the overlying muscle in a figure-of-eight stitch.

360. The surgeons then used electrocautery to achieve hemostasis.

361. The surgeons then packed the wound with wet to dry Kerlix and applied dry Kerlix and an Ace wrap.

362. Mr. Lilley was then awoken and taken to the PACU.

363. Mr. Lilley stayed at the Salem VAMC until April 23, 2012, when he was transferred to a skilled nursing facility, Heritage Hall-Lexington, for rehabilitation.

364. Mr. Lilley was found to have an infection in his right leg and was transferred from Heritage Hall-Lexington to Carilion Stonewall Jackson Hospital on May 3, 2012.

365. The Salem VAMC reportedly had no beds available at that time, so Mr. Lilley was transferred to Carilion Roanoke Memorial Hospital on May 4, 2012.

366. Mr. Lilley underwent a right axillo-to-superficial-femoral artery bypass at Carilion Roanoke Memorial Hospital on May 9, 2012.

367. Mr. Lilley underwent a second right below-the-knee amputation at Carilion Roanoke Memorial Hospital on May 15, 2012.

368. Mr. Lilley underwent debridement of his wound on May 18, 2012.

369. Mr. Lilley underwent a revision of his right below-the-knee amputation on May 22, 2012.

370. Mr. Lilley underwent extensive rehabilitation and physical therapy following his surgeries at Carilion Roanoke Memorial Hospital, both inpatient and outpatient.

371. Mr. Lilley has had to be fitted with prostheses.

372. Mr. Lilley underwent a further revision of his right below-the-knee amputation at Carilion Roanoke Memorial Hospital on April 30, 2013.

373. Mr. Lilley underwent a right through-the-knee amputation on August 8, 2013.

374. Mr. Lilley underwent a right above-the-knee amputation on August 13, 2013.

375. Mr. Lilley has required extensive medical treatment, surgical treatment, physical therapy, rehabilitative efforts, and prostheses for the below-the-knee amputation of his right leg. It is expected that Mr. Lilley will continue to require care and treatment for the foreseeable future, if not forever.

376. Mr. Lilley was continuously and without substantial interruption cared for and treated by the Defendant and its employees and agents for his vascular condition from at least February 15, 2012 through April 23, 2012. All such employees and agents were acting in the course and scope of their office or employment or their agency with the Defendant.

377. The Defendant is legally responsible for the actions and inactions of its employees and agents including those identified above and those identified in Mr. Lilley's medical records including, but not limited to, Drs. Arindam Choudhury, Albert Weed, Jorge Rivera-Irias, Gary Collin, Alan White, Jayme B. Stokes, and Nicholas H. Pope, and the nurses and medical students.

378. At all times and places pertinent to this action, Mr. Lilley had a healthcare provider-patient relationship with the Defendant and its employees and agents.

379. The Defendant and its employees and agents owed Mr. Lilley the duty to act as reasonably prudent healthcare providers in the same or related field of medicine would have acted under the same or similar circumstances.

380. The Defendant and its employees and agents committed malpractice by not acting as reasonably prudent healthcare providers in the same or related field of medicine would have acted under the same or similar circumstances in their care and treatment of Mr. Lilley's vascular condition, and their malpractice was a proximate cause of his past, present, and future harms and losses.

381. The Defendant and its employees and agents committed malpractice in their care and treatment of Mr. Lilley's vascular condition from at least March 30, 2012 through April 23, 2012. Such employees and agents include those identified above and those identified in Mr. Lilley's medical records including, but not limited to, Drs. Arindam Choudhury, Albert Weed, Jorge Rivera-Irias, Gary Collin, Alan White, Jayme B. Stokes, and Nicholas H. Pope, and the nurses and medical students.

382. The acceptable standard of care required that the Defendant and its employees and agents not make a venotomy in the retro-aortic left renal vein and not make a venotomy in the iliac vein during their attempted aorto-bifemoral bypass surgery. To compound this malpractice, the Defendant and its employees and agents did not timely and properly monitor Mr. Lilley's vascular condition, communicate with each other about Mr. Lilley's vascular condition, intervene, act, and treat Mr. Lilley's vascular condition after their attempted aorto-bifemoral bypass surgery.



383. The Defendant and its employees and agents breached their duties to Mr. Lilley and committed malpractice in the following respects:

- a. They did not use appropriate surgical technique.
- b. They did not properly perform the aorto-bifemoral bypass procedure on Mr. Lilley.
- c. They made a venotomy in Mr. Lilley's retro-aortic left renal vein.
- d. They made a venotomy in Mr. Lilley's right iliac vein.
- e. They caused Mr. Lilley to suffer severe blood loss during his aorto-bifemoral bypass procedure.
- f. They "near to completely" occluded Mr. Lilley's right iliac vein in attempting to repair the venotomy in his right iliac vein.
- g. They did not timely and properly evaluate Mr. Lilley's post-operative condition, including, but not limited to, the condition of his right lower extremity.
- h. They did not timely and properly work-up Mr. Lilley's condition.
- i. They did not timely and properly monitor Mr. Lilley's condition.
- j. They did not timely and properly diagnose Mr. Lilley's condition.
- k. They did not timely and properly appreciate changes in Mr. Lilley's condition, including, but not limited to, changes in the condition of his right lower extremity.
- l. They did not make themselves timely aware of Mr. Lilley's condition and changes in Mr. Lilley's condition, including, but not limited to, problems with his right lower extremity.
- m. They did not timely and properly communicate with each other about Mr. Lilley's condition and changes in Mr. Lilley's condition, including, but not limited to, changes in the condition of his right lower extremity.
- n. They did not timely and properly treat Mr. Lilley's vascular condition.
- o. They did not do those things necessary to protect and preserve Mr. Lilley's vascular integrity.
- p. They did not do those things necessary to prevent the amputation of Mr. Lilley's right foot.
- q. Overall, their care and treatment of Mr. Lilley deviated from the standard of care when they knew, or should have known, that such substandard care and treatment would cause or likely would cause serious injury to and/or the death of Mr. Lilley.

384. As a proximate result of the malpractice of the Defendant and its employees and agents, Mr. Lilley lost his right foot and has had to undergo numerous revisions of his initial below-the-knee amputation; Mr. Lilley has been disfigured; Mr. Lilley has had to undergo a separate right axillo-to-superficial-femoral artery bypass surgery at Carilion Roanoke Memorial Hospital; Mr. Lilley remained intubated in the SICU at the Salem VAMC for an extended period of time and developed pneumonia; Mr. Lilley has had to undergo extensive medical treatment,

surgical treatment, physical therapy, and rehabilitative efforts and has had to be fitted with prostheses, and he will require additional medical treatment, surgical treatment, physical therapy, rehabilitative efforts, and prostheses in the future; Mr. Lilley has suffered permanent and severe physical injuries; Mr. Lilley has suffered and will suffer great emotional distress; Mr. Lilley has suffered and will suffer tremendous pain; Mr. Lilley has suffered and will suffer inconvenience, embarrassment, and humiliation; Mr. Lilley has incurred and will incur substantial medical and other expenses; Mr. Lilley has incurred and will incur financial loss; and Mr. Lilley has incurred and will incur decreased enjoyment of life and loss of his independence.

385. If the Salem VAMC and its employees and agents had complied with the standard of care, Mr. Lilley would have avoided all of his past, present, and future injuries and damages, and his outcome.

386. Mr. Lilley certifies that he complied with Virginia law prior to requesting service of process upon the Defendant.

387. Mr. Lilley seeks to be fairly compensated to the fullest extent permitted under the law for his harms and losses occasioned by the malpractice of the Defendant and its employees and agents.

WHEREFORE, the Plaintiff moves this Court for judgment against the Defendant in the amount of TWO MILLION DOLLARS (\$2,000,000.00) plus his taxable costs with pre- and post-judgment interest.

TOBY LILLEY

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